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09/213,131	12/15/1998	ERIC C. ANDERSON	736CP126C	7384

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EXAMINER

GENCO, BRIAN C

ART UNIT PAPER NUMBER

2615

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/213,131

Applicant(s)

ANDERSON, ERIC C.

Examiner

Brian C Genco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on January 18, 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-9, 11-18 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-9, 11-18 and 20-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Upon further consideration and search the previous grounds of rejection is being withdrawn and new grounds of rejection are presented herein below.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 7-9, 11-18, and 20-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 and 6-10 of U.S. Patent No. 5,973,734 to Anderson in view of U.S. Patent No. 5,270,831 to Parulski et al.

In regards to claim 7 of the instant invention Examiner notes that claims 1-5 of Anderson discloses all of the limitations except for "rotating the image, if required, so that the image appears upright on the image capture device". Parulski discloses generating an orientation field in an image header file (column 6, lines 1-12; Figs. 2 and 3) wherein when the image is being displayed it is rotated so the image appears upright (column 8, lines 29-68; Fig. 6). Therefore it would have been obvious to one of ordinary skill in the art to include an orientation field in the image data so as to enable the rotation of images so that they appear upright as taught by Parulski

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and therefore not require the user of Anderson's camera to rotate the camera so as to see an upright image when displaying both portrait and landscape images.

In regards to claims 8, 9, and 11-14 of the instant invention see claims 1-5 of Anderson.

In regards to claims 15-18 and 20-22 see claims 6-10 of Anderson. Note the obviousness rationale provided above for rotating the image.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 7-9, 11, 12, 15-18, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by (USPN 6,262,769 to Anderson et al.).

In regards to claim 7 Anderson discloses a method for correcting an aspect ratio of an image captured by an image capture device comprising the steps of:

(a) rotating the image, if required, so that the image appears upright on the image capture device (e.g. column 3, lines 5-21; column 6, line 56 – column 7, line 10; column 7, line 60 – column 8, line 12);

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(b) determining if the aspect ratio of the image matches a predetermined aspect ratio (e.g., it is determined if the image is to be rotated to a portrait orientation on the landscape display or if the image is to be displayed as a landscape image on the landscape display; column 6, line 50 – column 7, line 10; column 8, lines 9-14; Figs. 10a and 10b);

(c) decompressing the image if required (e.g., column 8, lines 43-57);

(d) cropping the image if the aspect ratio does not match the predetermined aspect ratio, thereby providing a cropped image (e.g., column 8, lines 9-38, wherein the predetermined aspect ratio is the aspect ratio of the display in its current orientation; Figs. 10a, 10b, and 11);

(e) providing the cropped image to a display (e.g., Figs. 10a, 10b, and 11);

wherein the image capture device is a digital camera (e.g., Fig. 2).

In regards to claim 8 Anderson discloses the method of claim 7 wherein the step of cropping the image further comprises the step of:

(d1) resizing the image (e.g., column 8, lines 9-57 wherein cropping the image is resizing it, also adding the borders to the image is resizing the image).

In regards to claim 9 Anderson discloses the method of claim 8 wherein the aspect ratio determining step (a) further comprises the step of:

(b1) determining the aspect ratio of the image (e.g., determining the orientation of the image); and

(b2) determining if the aspect ratio of the image matches an aspect ratio of the display (e.g., column 8, lines 10-13).

In regards to claim 11 see element 402 of Fig. 3.

In regards to claim 12 see Figs. 10a, 10b, and 11.

In regards to claims 15-18, and 20 see Examiner's notes on the rejections above.

Claims 7-9 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by (USPN 5,270,831 to Parulski et al.).

In regards to claim 7 Parulski discloses a method for correcting an aspect ratio of an image captured by an image capture device comprising the steps of:

- (a) rotating the image, if required, so that the image appears upright on the image capture device (e.g. column 2, lines 40-45; column 3, lines 12-19; column 6, line 62 – column 7, line 2);
- (b) determining if the aspect ratio of the image matches a predetermined aspect ratio (e.g., column 7, lines 3- column 8, line 8; Figs. 5-9);
- (c) decompressing the image if required (e.g., column 4, line 60 – column 5, line 4);
- (d) cropping the image if the aspect ratio does not match the predetermined aspect ratio, thereby providing a cropped image (e.g., column 7, lines 3- column 8, line 8; Figs. 5-9);
- (e) providing the cropped image to a display (e.g., Figs. 5-9);

wherein the image capture device is a digital camera (e.g., scanner 12 of Fig. 1; column 4, lines 35-49; also note column 4, lines 26-31).

In regards to claim 8 Anderson discloses the method of claim 7 wherein the step of cropping the image further comprises the step of:

- (d1) resizing the image (e.g., column 8, lines 29-63).

In regards to claim 9 Anderson discloses the method of claim 8 wherein the aspect ratio determining step (a) further comprises the step of:

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- (b1) determining the aspect ratio of the image; and
- (b2) determining if the aspect ratio of the image matches an aspect ratio of the display (e.g., column 7, lines 3- column 8, line 8; Figs. 5-9).

In regards to claims 15-17 see Examiners notes on the rejections above.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 11-14, 18, and 21-22 rejected under 35 U.S.C. 103(a) as being unpatentable over (USPN 5,270,831 to Parulski et al.).

In regards to claim 11 Parulski discloses that the images are output to a display device, such as a color TV monitor (e.g., column 7, lines 21-26). Parulski does not particularly disclose that the monitor is an LCD monitor. Examiner notes that LCD monitors are extremely well known in the art for providing a monitor that is smaller in size, brighter, and uses less power than conventional CRT TV monitors. Official notice is taken. Therefore it would have been obvious to one skilled in the art at the time of the invention to have utilized an LCD monitor as suggested by Parulski in the generic language of a display monitor and the description on column 10, lines 36-44 in order to provide a monitor that is smaller in size, brighter, and uses less power than conventional CRT TV monitors as is widely known by those skilled in the art.

In regards to claim 12 Examiner notes page 12, lines 11-14 of the instant invention for the definition of a screennail image. Examiner notes column 7, lines 39-61 of Parulski wherein

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by providing an image that fills the visible area of the display, Parulski provides a scrennail image.

In regards to claim 13 note column 4, line 60 – column 5, line 4 wherein iteratively higher resolution images can be displayed.

In regards to claim 14 see Examiners notes on the rejections above, wherein the same display steps for cropping the image would be applied to the higher resolution images.

In regards to claims 18 and 21-22 see Examiners notes on the rejection of the claims above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian C. Genco who can be reached by phone at 571-272-7364 or by fax at 571-273-7364. The examiner can normally be reached on Monday thru Friday 8:30am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached at 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is 571-272-2600.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brian C Genco
Examiner
Art Unit 2615

March 24, 2005


James J. Groody
Supervisory Patent Examiner
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